

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

RICK LYN SHADDON,)	
)	
)	
Petitioner,)	
v.)	Civil Action
)	No. 04-3021-CV-S-RED-H
BILL HEDRICK, Warden,)	
)	
Respondent.)	

ORDER AND JUDGMENT

Pursuant to the governing law and in accordance with Local Rule 72.1 of the United States District Court for the Western District of Missouri, the petition herein for a writ of habeas corpus was referred to the United States Magistrate for preliminary review under the provisions of 28 U.S.C. § 636(b).

The United States Magistrate has completed his preliminary review of the petition and has submitted to the undersigned a report and recommendation that the petition be dismissed without prejudice.

Petitioner has filed exceptions to the report and recommendation of the magistrate judge, asserting that the Bureau of Prisons has abused its discretion in denying his request for a compassionate release.

The Bureau of Prisons has discretion to determine whether to recommend a compassionate release, utilizing 18 U.S.C. §4205(g) or 18 U.S.C. § 3582(c)(1)(A). Petitioner has filed previous requests for compassionate release, the earliest of which was in 1999, and the most recent on July 7, 2003. Petitioner has no constitutional right to an early release, and there is nothing in the record submitted to indicate that the Bureau of Prisons has abused its discretion. Petitioner's exceptions

must therefore be overruled. It is therefore

ORDERED that petitioner be, and he is hereby, denied leave to proceed in forma pauperis;
it is further

ORDERED, ADJUDGED and DECREED that the petition filed herein be dismissed without
prejudice.

/s/ Richard E. Dorr

RICHARD E. DORR
United States District Judge

Date: August 15, 2005